

BANKING AND FINANCIAL INSTITUTIONS

Sub-Chapter 4

Credit Unions

2.59.401 CREDIT UNIONS - SUPERVISORY AND EXAMINATION

FEEES

(1) Supervisory fees (annual):

<u>Total Assets</u>	<u>Fee</u>
\$500,000 or less	0.00026 x total assets
Over \$500,000 but not over \$1,000,000	\$130 plus 0.000221 x total assets in excess of \$500,000
Over \$1,000,000 but not over \$2,000,000	\$240.50 plus 0.000182 x total assets in excess of \$1,000,000
Over \$2,000,000 but not over \$5,000,000	\$422.50 plus 0.00013 x total assets in excess of \$2,000,000
Over \$5,000,000	\$812.50 plus 0.000091 x total assets in excess of \$5,000,000

The above fees will be assessed upon the December 31 total assets of each year and become due and payable on or before February 15 of the next succeeding year.

(2) Examination fees:

(a) The fee for the regular, annual examination will be calculated according to the following schedule:

<u>Total Assets</u>	<u>Fee</u>
\$500,000 or less	0.00078 x total assets
Over \$500,000 but not over \$1,000,000	\$390 plus 0.0003575 x total assets in excess of \$500,000
Over \$1,000,000 but not over \$5,000,000	\$568.75 plus 0.00026 x total assets in excess of \$1,000,000
Over \$5,000,000	\$1,608.75 plus 0.0000975 x total assets in excess of \$5,000,000

(b) A charge of \$10 per hour per examiner engaged in the examination will be made in addition to the above charges. The number of hours charged for examiners in training will be adjusted to exclude time devoted to training.

(c) Newly chartered credit unions will receive one examination at no cost during the first year of operation. A newly chartered credit union is defined as a credit union which began operation within the past 12 months.

(d) If a credit union is examined by the department more than once during a calendar year, subsequent examination(s) will be based on examiner(s) time spent at the credit union site and in department offices preparing the examination report. The fee will equal actual working hours, net of any training time, multiplied by the hourly rate of compensation for the personnel involved. (History: Sec. 32-3-201, MCA; IMP, Sec. 32-3-201, MCA; Eff. 11/3/75; AMD, 1991 MAR p. 442, Eff. 3/15/91; TRANS, from Commerce, 2001 MAR p. 1178.)

2.59.402 CREDIT UNIONS - LIMITED INCOME PERSONS, DEFINITION (1) Existing credit unions may include within their field of membership limited income persons for whom credit union services are not otherwise available.

(2) Limited income persons are defined as those persons whose annual income is less than that specified below based upon family size:

<u>Family Size</u>	<u>Annual Income</u>
1	\$ 6,314
2	8,075
3	9,890
4	12,675
5	14,994
6	16,927

For family units with more than six members add \$1,780 for each additional member. (History: Sec. 32-3-201, MCA; IMP, Sec. 32-3-307, MCA; Eff. 11/3/75; AMD, 1991 MAR p. 292, Eff. 3/15/91; TRANS, from Commerce, 2001 MAR p. 1178.)

2.59.403 CREDIT UNIONS - SURETY BOND AND HAZARD INSURANCE COVERAGE (1) Each credit union shall provide surety bond coverage for each of its employees, board members, or committee members whose duties include the handling of cash, cash equivalents, negotiable instruments of any kind, credit cards, debit cards, or who act as bookkeepers or who are able to make entries to accounts affecting the credit union or its members.

(2) Each credit union shall obtain casualty insurance, fire insurance, liability insurance or such other types of insurance as may be appropriate to the credit union's needs.

(3) Surety bond coverage and insurance coverage shall be in amounts appropriate to the total assets of the credit union, the nature of its business, and the value of its insured property. In no case shall the amounts of coverage be less than those required of federal credit unions by the

national credit union administration. (History: Sec. 32-3-201, MCA; IMP, Sec. 32-3-201, MCA; NEW, 1992 MAR p. 2465, Eff. 11/13/92; TRANS, from Commerce, 2001 MAR p. 1178.)

2.59.404 CORPORATE CREDIT UNIONS (1) In the context of a conflict of interest that may arise relating to a director, committee member, officer, agent or employee's personal pecuniary interests, the following definitions apply:

(a) "Determination" means those actions pertaining to the discovery of pertinent circumstances, the analyses of those circumstances, the process of reporting and presenting the matters to others, or any participation in the decision making process, relating to a director, committee member, officer, agent, or employee's pecuniary interests. These pecuniary interests may be personal, or related to organizations the director, committee member, officer, agent, or employee directly or indirectly personally owns or controls; or where the director, committee member, officer, agent, or employee exerts an otherwise controlling influence over such an organization.

(b)(i) For purposes of 12 CFR 704.12(c)(1) for situations regarding personal recusal, whose language is incorporated by reference as part of this rule; and those that include regulatory reporting, and the integrity of financial statements produced by the corporate credit union, an item is "material" that has an impact upon report form National Credit Union Administration 5300, or that is greater than or equal to \$5,000. A copy of report form National Credit Union Administration 5300 may be obtained from the Division of Banking and Financial Institutions, Department of Administration, 846 Front Street, P.O. Box 200546, Helena, MT 59620-0546, at cost plus postage and handling.

(ii) For the purpose of 12 CFR 704.12(c)(2), (3), (4) and (5), whose language is incorporated as part of this rule, "material" shall mean an amount that exceeds 5% of the corporate credit union's capital.

(c) The banking and financial institutions division of the department of administration adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704, section 12(c) of the Code of Federal Regulations.

(2) The following applies to a corporate credit union's additional rights and powers:

(a) A corporate credit union shall develop a strategic business plan that identifies how the members' needs will be met, while maintaining the credit union's safety and soundness. The plan shall cover three years from inception, with annual updates made in those years following the first year of the plan. The plan should address existing potential for growth, future staff needs, and the adequacy of the credit union's data processing. The plan should include, but not be limited to, management's

intentions regarding the control and containment of risk. In addition, the plan should contain steps to achieve the credit union's goals. A management system for monitoring the plan should include an annual board review of the plan.

(b) Corporate credit unions must adopt flexible capital goals, objectives, and strategies that include a budgetary process. The banking and financial institutions division of the department of administration adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704, section 5 of the Code of Federal Regulations.

(c) The corporate reserve requirements of 12 CFR 704.11 are incorporated for use as minimum standards for the purpose of this section. This includes, but is not limited to, those provisions pertaining to risk-weighted assets, and the components of risk-weighted capital. The division of banking and financial institutions of the department of administration adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704 of the Code of Federal Regulations, appendices "A", "B", "C" of 12 CFR 704. These appendices address risk weights and risk categories, off balance sheet risk weighting, and investments, respectively.

(d) The credit union shall develop and implement comprehensive funds management policies. Monthly monitoring reports should be prepared for management's analyses, decisions, and recommendations to the board.

(e) A corporate credit union shall develop written loan policies which address origination, underwriting, and administration of loans to credit unions, members that are not credit unions, and credit unions that are not members of the corporate credit union. The division of banking and financial institutions of the department of administration adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704, section 7 of the Code of Federal Regulations.

(f) The board of directors of a corporate credit union shall adopt an investment policy that will meet the needs of the corporate credit union. The policy will address risk diversification, funds management, approved investment vehicles, approval of broker/dealers, identification and authorizations for the credit union's investment officer(s) and/or its investment committee, and procedures for review and monitoring of performance. Investments permitted by this section shall generally include the issues of those agencies and government sponsored corporations and enterprises listed in the NCUA's Rules and Regulations at 12 CFR 704, Appendix "C". The division of banking and financial institutions of the department of administration adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704, section 6(b)(2) of the Code of Federal Regulations.

(g) The investment in credit union service organizations shall be limited in the aggregate to 15% of a corporate credit union's capital. Such investments shall be further conditioned and limited by the provisions contained in 12 CFR 704.6(b)(1). The division of banking and financial institutions of the department of administration adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704, section 6(b)(1) of the Code of Federal Regulations.

(h) A corporate credit union may provide services to its members that are customarily defined in the ordinary course of business to be "correspondent services". The services provided for in 12 CFR 704.9 may also be provided to members, unless prohibited by the state of Montana.

(i) "Correspondent services" means those activities related to the business of the credit union but which may legally be provided by others. It includes, but is not necessarily limited to:

- (A) investment services,
- (B) safekeeping services,
- (C) funds management services,
- (D) payment system services,
- (E) audit services,
- (F) management consulting and advisory services,
- (G) operational consulting and advisory services,
- (H) education and training services,
- (I) currency and coin supply services.

(i) A corporate credit union will be permitted to borrow up to a multiple of 10 times its capital, or up to 50% of its shares and capital, whichever is greater. The division of banking and financial institutions of the department of administration adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704, section 8 of the Code of Federal Regulations.

(j)(i) The expanded rights and powers listed in [32-3-804](#), MCA, are deemed to include those provisions of 12 CFR 704.6 (investments), 12 CFR 704.7 (lending), 12 CFR 704.8 (borrowing), 12 CFR 704.9 (services), and 12 CFR 704.12 (membership). The division of banking and financial institutions of the department of administration adopts and incorporates by reference the National Credit Union Administration's Rules and Regulations in Title 12, part 704, sections 6, 7, 8, 9 and 12 of the Code of Federal Regulations.

(ii) The division of banking and financial institutions of the department of administration adopts and incorporates by reference the following National Credit Union Administration's Rules: 12 CFR 704.1 (regarding authorities), 12 CFR 704.2 (certain definitions which does not include the definition of "material" defined herein), 12 CFR 704.5 (capital goals, objectives and strategies), 12 CFR 704.9 (services), 12 CFR 704.10 (fixed assets), 12 CFR

704.11 (corporate reserves), 12 CFR 704.12 (representation), 12 CFR 704.13 (annual audit), and 12 CFR 704.14 (contracts and written agreements).

(3) A copy of the National Credit Union Administration's Rules and Regulations may be obtained from the Division of Banking and Financial Institutions, Department of Administration, 846 Front Street, P.O. Box 200546, Helena, MT 59620-0546. (History: Sec. [32-3-803](#), [32-3-804](#), MCA; IMP, Sec. [32-3-801](#), [32-3-802](#), [32-3-803](#), [32-3-804](#), MCA; NEW, 1994 MAR p. 161, Eff. 1/28/94; TRANS, from Commerce, 2001 MAR p. 1178.)

2.59.405 RETENTION OF CREDIT UNION RECORDS (1)

Credit unions are required to preserve or keep their records of nonmember accounts for at least eight years after January 1 of the year following the time that the records are made; however, records showing unpaid balances in favor of members may not be destroyed.

(2) The schedule Credit Union Records Publication Appendix "A" establishes the minimum period for retention of nonmember account records for all state-chartered credit unions. Credit Union Records Publication Appendix "A" is maintained by the Commissioner of Banking and Financial Institutions, and may be updated at regular intervals not more than once a year by the commissioner. The December 11, 2006, edition of the Credit Union Records Publication Appendix "A" is incorporated by reference as part of this rule. A copy of this document can be obtained from the Division of Banking and Financial Institutions, Department of Administration, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

(3) When a bank microfilms, photographs, uses other electronic or computer-generated data records in the regular course of business, the retention period of the microfilm, photographs, electronic, or computer-generated data must be the same as specified in the Credit Union Records Publication Appendix "A".

(4) Credit unions must comply with all federal laws and regulations requiring specific retention periods for the records enumerated in those laws or regulations. In the event that a federal law or regulation conflicts with a retention period contained in Credit Union Records Publication Appendix "A", a credit union must comply with whichever retention period is longer. Credit unions must comply with other applicable state laws governing retention of personnel records, corporation records, etc.

(5) If a credit union does not maintain records set forth in Credit Union Records Publication Appendix "A", but maintains similar records with equivalent information, the credit union's records must be retained for the time specified within Credit Union Records Publication Appendix "A" as to the equivalent records.

(6) Records not covered by this rule are to be retained for a period of time determined appropriate by the

credit union's board of directors. Such retention periods determined appropriate shall be noted as a permanent part of the board's minutes.

(7) "Member accounts" mean share savings accounts, share draft accounts, share certificates, safety deposit boxes, and trust accounts. (History: 32-3-201, MCA; IMP, 32-3-204, MCA; NEW, 2006 MAR p. 3068, Eff. 12/22/06.)